

COBLENTZ PATCH DUFFY & BASS LLP
One Ferry Building, Suite 200, San Francisco, California 94111-4213
415.391.4800 • Fax 415.989.1663

1 Jeffrey G. Knowles (State Bar No. 129754)
Mark L. Hejinian (State Bar No. 281417)
2 COBLENTZ PATCH DUFFY & BASS LLP
One Ferry Building, Suite 200
3 San Francisco, CA 94111-4213
Telephone: 415.391.4800
4 Facsimile: 415.989.1663
Email: ef-jgk@cpdb.com,
5 ef-mlh@cpdb.com

6 Terrence J. Fleming (Admitted *pro hac vice*)
Christopher A. Grgurich (Admitted *pro hac vice*)
7 LINDQUIST & VENNUM LLP
4200 IDS Center
8 80 South 8th Street
Minneapolis, MN 55402
9 Telephone: 612.371.3211
Email: tfleming@lindquist.com
10 cgrgurich@lindquist.com

11 Attorneys for Defendant
CARL TOWLEY III

12
13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION**
15

16 GARY L. TAVERNETTI,
17 Plaintiff,
18 v.
19 CARL TOWLEY, III, and DOES 1 through
20 100,
21 Defendants.

Case No. 5:15-cv-01083 (NMC)

**STIPULATION AND MODIFIED ORDER
TO TRANSFER CASE**

Judge: Nathanael M. Cousins

Complaint File: February 14, 2014
Trial Date: None Set

1 WHEREAS, on February 14, 2015, Plaintiff Gary L. Tavernetti ("Plaintiff") filed a
2 Complaint for Damages, Injunctive Relief for and for Imposition of a Constructive Trust for: (1)
3 Breach of Contract, (2) Breach of Fiduciary Duty, (3) Fraud (Intentional, Misrepresentation,
4 Concealment and Non Disclosure), and (4) Conversion in Monterey County Superior Court
5 against, *inter alia*, Defendant Carl Towley, III ("Defendant");

6 WHEREAS, on March 3, 2015, Defendant (through counsel) was served with a First
7 Amended Complaint for Damages, Injunctive Relief for and for Imposition of a Constructive
8 Trust for: (1) Breach of Contract, (2) Breach of Fiduciary Duty, (3) Fraud (Intentional,
9 Misrepresentation, Concealment and Non Disclosure), and (4) Conversion (the "FAC");

10 WHEREAS, on March 9, 2015, Defendant removed the action to this Court pursuant to the
11 provisions of 28 U.S.C. § 1332 (Dkt. 1);

12 WHEREAS, on March 16, 2015, Defendant filed a Motion To Dismiss (Dkt. 7) seeking,
13 *inter alia*, transfer of this action to the United States Federal District Court of Minnesota because
14 this action is improperly venued in California, but venue in Minnesota is proper;

15 WHEREAS, pursuant to 28 U.S.C. § 1406(a), the parties agree that the convenience of
16 parties and witnesses and the interests of justice support venue in the United States Federal
17 District Court of Minnesota because the alleged acts or events in the FAC, if true, would have
18 taken place in whole or in part in Minnesota;

19 WHEREAS, the parties agree and consent to venue in United States Federal District Court
20 of Minnesota as proper;

21 IT IS THEREFORE STIPULATED AND AGREED THAT:

22 (1) Defendant's Motion to Dismiss is GRANTED IN PART;

23 (2) the above-captioned case should be transferred to the United States Federal District
24 Court of Minnesota pursuant to 28 U.S.C. § 1406(a);

25 (3) the Court ORDERS the Clerk of Court to transfer this case to the United States
26 Federal District Court of Minnesota; and

27 ///

28 ///

(3) Defendant's Motion to Dismiss is DENIED AS MOOT in all other respects.

DATED: March 20, 2015

BARRON & ASSOCIATES

By: /s/ Gerald V. Barron
Gerald V. Barron
Attorneys for Plaintiff
GARY L. TAVERNETTI

DATED: March 20, 2015

COBLENTZ PATCH DUFFY & BASS LLP

By: /s/ Jeffrey G. Knowles
Jeffrey G. Knowles
Attorneys for Defendant
CARL TOWLEY III

ORDER

GOOD CAUSE APPEARING, IT IS SO ORDERED. In the interest of justice, this case is transferred to the U.S. District Court, District of Minnesota, under 28 U.S.C. § 1406(a).

Dated: March 23, 2015

